

1926

# OLEOMARGARINE

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**OLEOMARGARINE.** Referendum upon act of legislature amending Section 12 of "General Dairy Law of California" and adding thereto Section 21½. Further regulates the manufacture and sale of oleomargarine and prohibits the use of dairy terms and symbols in connection therewith; in addition to annual license payable by those dealing in oleomargarine, requires them to pay to state two cents for each pound of oleomargarine sold during each quarter, except oleomargarine delivered for sale outside of this state; provides that all fees be credited to oleomargarine enforcement and dairy control fund to further purposes of act.

YES

NO

(For full text of Measure see page 4, Part II.)

### Argument in Favor of Oleomargarine Referendum Measure.

California's original oleomargarine law was adopted in 1894, when the fraudulent sale of oleomargarine had reached scandalous proportions throughout the nation.

During the thirty-two years that the law has been operative, manufacturing and merchandising practices have been revolutionized, but the original law has never been changed in any important particular, previous to the act of the legislature of 1925.

The act, aside from providing additional enforcement funds, does nothing more than clarify the meaning of the original law, and provide practical means of applying its provisions to present-day practices.

The purpose of the act is to require that oleomargarine shall not be manufactured in exact imitation of butter; prevents its substitution for genuine butter in stores, hotels, restaurants, boarding houses, and bakeries, unless the purchaser, or patron is notified as provided in the act; and require that the advertising of oleomargarine shall not convey the suggestion that the brand advertised is in any sense a dairy product.

The act provides its own funds for enforcement, by means of a small license fee to be paid by the handler, and an additional fee to be paid by the manufacturer, of two cents per pound on the quantity made and sold within the state only. The payment of the fee is thus removed from the shoulders of the general taxpayer and charged to the manufacturer, where it properly belongs. It is manifestly unjust to spread this cost over all the people, when the only ones directly concerned are those who buy the product, and those who make it. Only about one-fifth of our people are users of oleomargarine.

The manufacture and sale of oleomargarine in California has reached an annual volume of nearly twenty million pounds, and there are nearly eight thousand licensed handlers of the product. This is ample evidence that there is nothing in the act which restricts the legal manufacture and sale of oleomargarine. The provisions of the act are solely for the prevention of deception and fraud, and for providing its own revenue for enforcement.

It was claimed in the hearing before the Senate Committee on Agriculture, in 1925, and not denied by the representatives of oleomargarine manufacturers, that there was a

[81x]

manufacturer's margin of no less than eight cents per pound. If the article has the merit which its friends claim for it, and if the people of the state, with full knowledge of its real character, desire to purchase and use it, the payment of the fee provided by the act will leave a fair profit to both manufacturer and dealer. If the existence of the commodity, and the profits of its manufacture and sale depend upon disposing of it to the people for something which it would deceitfully imitate, then the entire enterprise is a fraud, and not an industry.

The paramount duty of government is to protect the people from deceitful exploitation. This has been done by the act of the legislature, approved by the Governor. Vote YES to sustain their action.

SAM H. GREENE.

### Argument Against Oleomargarine Referendum Measure.

This measure imposes a tax of 2 cents per pound on all oleomargarine, including margarine and nut margarine, sold in this state, and places further oppressive restrictions on margarine sales.

For the first time in the history of California the legislature has dared to impose a tax on a food product. This tax means a direct increase in everybody's cost of living. Whether you use margarine or not, the tax hits you, because margarine is the anchor which keeps down the price of butter.

The provisions of this law regarding advertising and sale violate the right of free speech. Practically all margarine made in California is made by churning vegetable oil and milk, but this measure makes it a crime to advertise this truthful fact, because under it the use of the words "churn" and "milk" would be unlawful. Such a measure is a gag law.

This act is not a health measure. Margarine is made and sold in conformity with the pure food laws of the United States and of California.

This is an unjust law and a direct attack on your home, your pocket book and your personal liberty; vote NO on proposition No. 3.

If you do not want taxation of food products, if you do not want increased cost of living, if you believe in fair competition, fair play and free speech, if you are opposed to class legislation, VOTE NO ON PROPOSITION No. 3.

FRED J. BLAKELEY.

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## PART II

### Appendix

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of all the members elected to each of the two houses of said legislature voting in favor thereof, hereby proposes to the people of the State of California that a new section to be called section fifteen is hereby added to article thirteen of the constitution of the State of California, said section to read as follows:

**PROPOSED AMENDMENT.**

**Sec. 15.** Taxes levied, assessed and collected as hereinafter provided upon companies owning, operating or managing any automobile, truck or auto truck, jitney bus, stage or auto stage used in the business of transportation of persons or property as a common carrier for compensation over any public highway in this state between fixed termini or over a regular route, other than busses used exclusively for the transportation of pupils to or from any public school, when owned or operated by the school or school district, shall be entirely and exclusively for highway purposes, and shall be levied, assessed and collected in the manner hereinafter provided. The word "companies," as used in this section, shall include persons, partnerships, joint stock associations, companies and corporations.

(a) All such companies engaged in the business of transportation of persons, or persons and baggage, or persons and express, or persons, baggage and express where the same is transported on the same automobile, jitney bus, stage or auto stage transporting said persons shall annually pay to the state a tax upon their franchises, cars, equipment, and other property, or any part thereof, used exclusively in the operation of their business in this state, equal to four and one-quarter per cent of the gross receipts from operations of such companies, and each thereof, within this state.

All such companies operating trucks or auto trucks engaged in the business of transporting property shall annually pay to the state a tax upon their franchises, trucks or auto trucks, equipment, and other property, or any part thereof, used exclusively in the operation of their business in this state, equal to five per cent of the gross receipts from operations of such companies, and each thereof, within this state.

When such companies are operating partly within and partly without this state, the gross receipts within this state shall be deemed to be all receipts on business beginning and ending within this state, and a proportion, based upon the proportion of the mileage within this state to the entire mileage over which such business is done, of receipts on all business passing through, into, or out of this state.

Such taxes shall be in lieu of all other taxes and licenses, state, county and municipal, upon the property above enumerated of such companies; provided, that nothing herein shall be construed to release any such company from the payment of any amount to be paid or required by law to be paid for any special privilege or franchise heretofore granted by any of the municipal authorities of this state.

The revenues from the taxes provided for in this section shall be deposited in the general fund and shall be applied and the same are hereby appropriated one-half to the State of California to be devoted exclusively to the maintenance and repair of public highways within this state; the remaining one-half shall be apportioned among the respective counties of this state, in the proportion that the number of motor vehicles registered within such county for the preceding calendar year bears to the total number of motor vehicles registered in the State of California under the motor vehicle act of such state for the preceding year, and such sums so paid to said counties shall be devoted exclusively to the maintenance and repair of public highways within such county. In the event that all other state revenues are at any time deemed insufficient to meet the annual expenditures of the state, there may be levied in the manner to be provided by law, a tax, for state purposes, on all the property in the state, including the classes of property enumerated in this section, sufficient to meet the deficiency. All property enumerated in this section shall be subject to taxation, in the manner provided by law, to pay the principal and interest of any bonded indebtedness created and outstanding by any city, city and county, county, town, township, or district on the first day of October, one thousand nine hundred twenty-five. The taxes so paid for principal and interest on such bonded indebtedness shall be deducted from the total amount paid in taxes hereunder.

(b) All the provisions of this section shall be self-executing, and the legislature shall pass all laws necessary to carry this section into effect, and shall provide for the valuation and assessment of the property enumerated in this section, and shall prescribe the duties of the state board of equalization and any other officers in connection with the administration thereof.

The rates of taxation fixed in this section shall remain in force until changed by the legislature, two-thirds of all the members elected to each of the two houses voting in favor thereof. The taxes herein provided for shall become a lien on the first Monday in March of each year after the adoption of this section and shall become due and payable on the first Monday in July thereafter. The gross receipts herein mentioned shall be computed for the year ending the thirty-first day of December prior to the levy of such taxes and the value of any property mentioned herein shall be fixed as of the first Monday in March. Nothing herein contained shall affect any tax levied or assessed prior to the adoption of this section.

(c) No injunction shall ever issue in any suit, action or proceeding in any court against this state or against any officer thereof to prevent or enjoin the collection of any tax levied under the provisions of this section; but after payment action may be maintained to recover any tax illegally collected in such a manner and at such time as may now or hereafter be provided by law.

**OLEOMARGARINE.** Referendum upon act of legislature amending Section 12 of "General Dairy Law of California" and adding thereto Section 21½. Further regulates the manufacture and sale of oleomargarine and prohibits the use of dairy terms and symbols in connection therewith; in addition to annual license payable by those dealing in oleomargarine, requires them to pay to state two cents for each pound of oleomargarine sold during each quarter, except oleomargarine delivered for sale outside of this state; provides that all fees be credited to oleomargarine enforcement and dairy control fund to further purposes of act.

YES

NO

The legislature of the State of California, in regular session in 1925, passed, and the governor of the State of California on the twenty-third day of May, 1925, approved the following act, and a petition bearing the signatures of a sufficient number of electors asking that the act be submitted to the electors for their approval or rejection, having been filed with the secretary of state, in due time, the said act is hereby submitted on referendum.



(Proposed changes in provisions are printed in black-faced type.)

An act to amend section twelve of the "general dairy law of California," approved June 15, 1923, and to add thereto a new section to be numbered section twenty-one and one-half, relating to imitation milk, oleomargarine, and renovated butter, prohibiting the use of dairy terms and symbols in connection therewith, and creating the oleomargarine enforcement and dairy control fund.

The people of the State of California do enact as follows:

Section 1. Section twelve of the "general dairy law of California," approved June 15, 1923, is hereby amended so to read as follows:

Sec. 12. (a) Imitation milk is: (1) Any mixture combined with or composed of milk, or any product of milk, and any edible oil or fat, other than natural milk fat whether with or without any other ingredients, except that chocolate when used in combination with either whole or skim milk and sweetening shall not be deemed to be imitation milk. (2) Any mixture or compound made in imitation or semblance or having the appearance or semblance of milk or condensed milk or evaporated milk, or any mixture or compound which is made in imitation or semblance or having the appearance or semblance of milk, condensed milk, or evaporated milk, which imitation or semblance or other characteristic or appearance of said mixture or compound will tend to induce the sale or use of such compound or mixture as and for milk, condensed milk, or evaporated milk, or which mixture or compound is made with the intention of selling or offering to sell such mixture or compound as milk, condensed milk, or evaporated milk. Imitation milk shall contain not less than three per cent of edible oils or fats and, if evaporated or condensed, shall contain not less than seven and eight-tenths per cent of edible oils or fats. The manufacture and sale of imitation milk as herein defined shall, otherwise, be in accordance with chapter fifty-nine of the statutes of 1919.

(b) Oleomargarine is the product, article or compound obtained by mixing any fat, oil or oleaginous substance other than milk fat, with milk, skim milk, cream or butter with or without the addition of other substances, which product, article or compound shall be in imitation or semblance of butter in physical consistency, appearance or flavor.

(c) It shall be unlawful to manufacture, sell or offer for sale in this state any oleomargarine colored in imitation or semblance of butter, by whatever means the coloring is accomplished.

(d) All oleomargarine purchased by retail dealers, or sold or offered for sale by retail dealers, shall be delivered to the customer in cartons or packages in which packed by the manufacturer.

(e) Each and every package or container of oleomargarine packed, sold, or offered for sale, shall be plainly labeled with the word "oleomargarine" in plain block letters of the English language at least one inch in height when appearing on a box, tub, or other bulk container, and at least one-half inch in height when appearing on a carton, wrapper or other container in which it is supplied to the retail trade. In addition thereto, a label, printed with type not smaller than pica, shall be placed in or on each and every carton, wrapper, tub, box or other container of oleomargarine, giving the names of the ingredients in the finished product, specifying each of the oils or fats used, designated according to their source, giving the percentage of each oil, the collective percentage of other solids, and the percentage of moisture. No person shall deliberately efface, erase or remove any label herein required.

(f) Each license issued in accordance with the provisions of paragraph (i) of this section

shall bear a number. The license number and the fiscal year for which the license is issued shall appear upon all labels required by this section. It shall be unlawful for any person, firm, or corporation to permit to appear upon any wall sign required by this section, any words or language except such as are specifically required by this section.

(g) No person by himself, or another, engaged in the manufacture, handling, or sale of oleomargarine shall use in any way in connection with the labeling, advertising or sale of said oleomargarine any word naming a dairy product, or relating to the processes by which dairy products are manufactured or prepared for market, or any other word or designation which is commonly used by the dairy industry relating to dairy products, or any coined or compound word in which any of the words herein prohibited becomes a part, or any word which might be pronounced the same as any of the words or terms herein prohibited though spelled differently, or any picture, symbol, design or other representation which would tend to associate or confuse oleomargarine with any dairy product, or deceive or tend to deceive the public or misrepresent oleomargarine as a product of a dairy or of a factory of dairy products. No person shall color any illustration on any label, or advertising material used in connection with oleomargarine so that it shall resemble a print or "square" of butter, or portion thereof, and no such label shall be used in connection with oleomargarine. Whenever the brand name or a trade mark used to identify any oleomargarine shall appear on a billboard, poster, or other form of advertising, publicity or display material, the word "oleomargarine" shall also appear immediately adjacent thereto, in letters at least one-half the size of the largest letters composing said brand name or included in such trade mark.

(h) The owner, manager, superintendent or other person in charge of any hospital, hotel dining room, restaurant, boarding house, dining car, and every other place where food is served to the public, and where oleomargarine is sold, offered for sale, or served to the public, shall cause to be printed in the English language, and maintained, upon all menus and bills of fare, in type not smaller than other type used on such menus or bills of fare, statements that oleomargarine is sold and served in that place. Upon at least two of the walls of all such eating places where oleomargarine is sold, offered for sale, or served, there shall be posted and maintained notices, in plain English letters not less than two inches in height, the words "Oleomargarine Sold Here." All signs posted upon walls as herein required, shall be so placed that they shall be at all times in full view of the public.

(i) It shall be unlawful for any person, firm or corporation to engage in the occupation or business of manufacturing, distributing, selling, dealing in or furnishing oleomargarine to his, its or their patrons, or to use oleomargarine in the manufacture of food stuffs, unless such person, firm or corporation shall have obtained an annual license to do so for each of its separate plants or places of business, from the department of agriculture of the State of California and paid the appropriate license fee as fixed herein. Each application for such license shall be accompanied by a statement showing the name of the applicant, the classification of his or its business, the location of his or its separate places of business and the amount of the license fee for each such separate place of business, within the following classifications: one hundred dollars for manufacturers; fifty dollars for wholesale dealers, receivers, distributors, or the agents thereof; five dollars for retail dealers; two dollars for hotels, restaurants, boarding houses and other places where food is sold and served, and for bakeries. The term "wholesale dealer" as used in this section shall include those who in the usual course of business sell oleomargarine in quantities of ten pounds or more at a time or in the same transaction. The term "retail dealer" as used in this

section shall include those who in the usual course of business, sell oleomargarine in quantities of less than ten pounds at a time, or in the same transaction.

Upon receipt of an application for any of the licenses herein required, when accompanied by the necessary fee, the department of agriculture shall issue a license appropriate for the intended purpose, except that upon application for a manufacturer's license, the department shall first determine that the place of manufacture and materials to be used are clean, sanitary and wholesome. All of the above licenses are subject to revocation by the department of agriculture, after a hearing, for violation of any of the provisions of this act. Said licenses shall regularly expire on the 30th day of June, each year, whereupon they may be renewed upon payment to said department of the fees hereinabove mentioned in each instance, provided that renewal may be denied by said department upon a finding duly made by it, after investigation, and hearing, that during the twelve months next preceding the fiscal year for which the application for renewal is made, or any part of said period, the applicant had not conducted his or its business in accordance with the provisions of this act. All licenses while in force shall be kept conspicuously displayed in the principal place of business of the licensee. In addition to the license fee hereinabove required, a fee of two cents for each pound of oleomargarine sold each quarter shall be paid quarterly to the department of agriculture by each manufacturer, wholesale dealer or receiver or their agents in any case; provided, that said fee of two cents per pound when paid by any manufacturer, wholesale dealer or receiver for any given lot of oleomargarine need not be paid by any subsequent dealer for the same lot or any part thereof; and provided, further, that no such fee shall be required for oleomargarine delivered for sale outside the State of California. Each manufacturer and wholesale dealer shall submit monthly to the department of agriculture an alphabetical list of the names and addresses of all persons, firms and corporations to which sales or deliveries of oleomargarine have been made during the preceding month, showing the total amount of oleomargarine which was included in the aggregate transactions in each case for the preceding month or part thereof. Each of said statements shall be verified by an affidavit made by the person submitting it, certifying the correctness of said report. For the purpose of checking such statements, and for the further purpose of carrying out the provisions of this act, the department of agriculture shall have power to examine the books and accounts of persons, firms and corporations required to submit such verified lists and statements.

An aggregate statement of such sales, sworn to by each manufacturer or wholesaler, shall be rendered quarterly to the department of agriculture of the State of California and shall be accompanied by the corresponding amount of such fee of two cents per pound as above specified; provided, that the first quarter shall be for the three months ending December 31, 1925, and future quarters shall cover the three months of each year ending March 31, June 30, September 30 and December 31.

(j) Renovated butter is the product made from impure or rancid butter reduced, for the purpose of cleansing and renovating, to a liquid state by melting and draining off the liquid milk fat and afterwards churning or otherwise manipulating it in connection with milk or any product thereof. Butter made from assembled cream made from pure milk fat (made from nonrancid butter) combined with other wholesome milk products, under special permit from the department of agriculture of the State of California, which otherwise conforms to the standards for butter required by this act, shall not be construed to be renovated butter.

(k) No imitation milk or oleomargarine shall be used in any of the charitable or penal insti-

tutions that receive assistance from the state.

(l) It shall be unlawful for any person, firm or corporation to have in his or its possession, or under his or its control, except for actual consumption by an individual or member of his family, or to ship, consign, transport or deliver by common carrier, or to take orders for future delivery or sale, or to receive any oleomargarine which does not comply in all respects with all the requirements of this act.

Sec. 2. A new section to be numbered twenty-one and one-half is hereby added to said act approved June 15, 1923, to read as follows:

Sec. 21½. All fees collected under the provisions of this act shall be credited to an "oleomargarine enforcement and dairy control fund," which fund is hereby created, and shall be used by the department of agriculture of the State of California to carry out the purposes of this act.

Sec. 3. It is hereby expressly provided that this amendment shall become an integral part of the general dairy law of California and that it shall be read and interpreted in connection with the context of said act as a whole, and that it is subject to the same general provisions relating to unlawful sales, enforcement, violations and penalties, as are provided by said law.

#### EXISTING PROVISIONS.

(Provisions proposed to be repealed are printed in italics.)

Sec. 12. (a) Imitation milk is: (1) Any mixture combined with or composed of *skim milk, condensed, evaporated or dried milk* and any edible oil or fat, other than natural milk fat whether with or without any other ingredients, except that chocolate when used in combination with either whole or skim milk and sweetening shall not be deemed to be imitation milk. (2) Any mixture or compound made in imitation or semblance or having the appearance or semblance of milk or condensed or evaporated milk; or when so made or having such appearance or semblance calculated or intended, whether by intent of the compounder or other person, or by reason of the appearance or other characteristic of the mixture or compound, for use or disposition as or for milk, or as or for condensed or evaporated milk, or to induce its purchase, or use as or for milk or condensed or evaporated milk. Imitation milk shall contain not less than three per cent of edible oils or fats and, if evaporated or condensed, shall contain not less than seven and eight-tenths per cent of edible oils or fats. The manufacture and sale of imitation milk as herein defined shall, otherwise, be in accordance with chapter fifty-nine of statutes of 1919.

(b) For the purposes of this act certain manufactured substances, certain extracts, and certain mixtures and compounds including such mixtures and compounds with butter, milk or cream, shall be known and designated as "oleomargarine," namely: All substances heretofore known as oleomargarine, oleo, oleomargarine-oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine-oil, butterine, lardine, suine and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef-fat, suet, lard, lard oil, coconut oil, peanut oil, intestinal fat, and offal fat made in imitation or semblance of butter, or when so made, calculated or intended to be sold as butter or for butter; or butter substitute; and for the purposes of this act, every article, substance or compound, other than that produced from pure milk, or cream from the same, made in the semblance of cheese, and designed to be used as a substitute for cheese made from pure milk or cream, is hereby declared to be imitation cheese; provided, that the use of salt, rennet and a harmless coloring matter for coloring the product of pure milk or cream, shall not be construed to render such product an imitation; and provided, that nothing in this section shall prevent



the use of pure skim milk in the manufacture of cheese.

(c) No person, by himself or his agents or servants, shall render, manufacture, sell, offer for sale, expose for sale, or have in his possession with intent to sell or to use or to serve to patrons, guests, boarders, or inmates in any hotel, eating house, restaurant, public conveyance or boarding house or public or private hospital, asylum or eleemosynary or penal institution, any article, product or compound made wholly or partly out of any fat, oil, or oleaginous substance or compound thereof, not produced directly and at the time of manufacture from unadulterated milk or cream from the same, which article, product or compound shall be colored in imitation of butter or cheese produced from unadulterated milk or cream, or be made to resemble yellow butter in color, by whatever means the coloring is accomplished; provided, that nothing in this section shall be construed to prohibit the manufacture or sale, under the regulations hereinafter provided, of substances or compounds, designed to be used as an imitation or as a substitute for butter or cheese made from pure milk or cream from the same, in a separate and distinct form not resembling butter or cheese, and in such a manner as will advise the purchaser and consumer of its real character, free from coloration or ingredients that cause it to look like butter or cheese made from pure milk or cream, a product of the dairy.

(d) Each person, who by himself or another, lawfully manufactures any oleomargarine or any substance designed to be used as a substitute for butter or cheese, shall mark the same by branding, stamping or stenciling upon the top and sides of each tub, firkin, box or other package in which such article or substance shall be kept, and in which it shall be removed from the place where it is produced or put up, in a clear and durable manner, in the English language, the words, "oleomargarine," or "substitute for butter," or "substitute for cheese," as the case may be, in printed letters in plain roman type, each of which shall not be less than one inch in height by one-half inch in width, and in addition to the above shall prepare a statement, printed in plain roman type, of a size not smaller than pica, stating in the English language its name, and the name and address of the manufacturer, the name of the place where manufactured or put up, and also the names and actual percentages of the various ingredients used in the manufacture of such oleomargarine, imitation butter or imitation cheese; and shall place a copy of said statement within and upon the contents of each tub, firkin, box or other package, and next to that portion of each tub, firkin, box or other package as is commonly and most conveniently opened, and shall label the top and sides of each tub, firkin, box or other package by affixing thereto a copy of said statement, in such manner, however, as not to cover the whole or any part of said mark of, "oleomargarine," "substitute for butter," or "substitute for cheese." The absence of the markings and labelings specified in this paragraph, shall always be construed as representation that the contents of substance in question is butter, or cheese as the case may be.

(e) No person, by himself or another, shall knowingly ship, consign, or forward by any common carrier, whether public or private, any oleomargarine or any substance designed to be used as a substitute for butter or cheese, unless the same be marked and contain a copy of the statement, and be labeled as provided in paragraph (d) of this section; and no carrier shall knowingly receive the same for the purpose of forwarding or transporting unless it shall be manufactured, marked and labeled as hereinbefore provided, and unless it is consigned and by the carrier receipted for by its true name; provided, that this act shall not apply to any goods in transit between foreign states across the State of California.

(f) No person or his agent shall knowingly have in his possession or under his control any

oleomargarine, or any substance designed to be used as a substitute for butter or cheese, unless the tub, firkin, box or other package containing the same shall be clearly and durably marked and labeled as provided by paragraph (d) of this section, and also contain a copy of the statement required by said paragraph (d) of this section; and if the tub, firkin, box or other package be opened, then a copy of the statement described in said paragraph (d) of this section, shall be kept with its face up, upon the exposed contents of said tub, firkin, box or other package; provided, that this section shall not be deemed to apply to persons who have the same in their possession for the actual consumption of themselves or family, and for no other purpose.

(g) No person, by himself or another, shall sell, or offer for sale, or take orders for the future delivery of any oleomargarine, or any substance designed to be used as a substitute for butter or cheese, under the name of butter, or under the pretense that the same is butter or cheese; and no person, by himself or another, shall sell any substance designed to be used as a substitute for butter or cheese; unless he shall inform the purchaser distinctly, at the time of the sale, of its true name and character, and that the same is a substitute for butter or cheese, as the case may be, and shall deliver to the purchaser at the time of the sale, a separate and distinct copy of the statement described in paragraph (d) of this section; and no person shall use in any way in connection or association with the sale, or exposure for sale, or advertisement of any oleomargarine or any substance designed to be used as a substitute for butter or cheese, the words, "butterine," "creamery," or "dairy" or the representation of a cow or any breed of dairy cattle, or any combination of such words and representations, or any other words or symbols, or combinations thereof, commonly used by the dairy industry, except only the labeling requirements described in paragraph (d) of this section.

(h) No keeper or proprietor of any bakery, hotel, boardinghouse, restaurant, saloon, lunch counter, or other place of public entertainment, and no person having charge thereof or employed thereat, and no person furnishing board, for others than members of his own family, and no employee where such board is furnished as the compensation or as a part of the compensation of any employee, shall place before any patron or employee, for use as food, any oleomargarine, or any substance designed to be used as a substitute for butter or cheese, unless the same be accompanied by a copy of the statement described in paragraph (d) of this section, and by a verbal notification to said patron that such substance is a substitute for butter or cheese.

(i) No action can be maintained on account of any sale or other contract made in violation of, or with intent to violate, this act, by or through any person, who was knowingly a party to such wrongful sale or other contract. Every person having possession or control of any oleomargarine, or any substance designed to be used as a substitute for butter or cheese, which is not marked as required by the provisions of this act, shall be presumed to have known, during the time of such possession or control, that the same was imitation butter, or imitation cheese, as the case may be.

(j) No persons shall efface, erase, cancel or remove any mark, statement or label required by this act, with intent to mislead, deceive, or with intent to violate any of the provisions of this act.

(k) Whoever shall have possession or control of any imitation butter or imitation cheese or any oleomargarine, or any substance designed to be used as a substitute for butter or cheese, or any renovated butter, contrary to the provisions of this act, shall be construed to have possession of property with intent to use it as a means of committing a public offense, within the meaning of chapter three, of title twelve, or part two, of an act to establish a Penal Code; provided, that it shall be the duty of the officer

who serves a bench warrant issued for imitation butter or imitation cheese, or oleomargarine, or any substance designed to be used as a substitute for butter or cheese, or any renovated butter, to deliver to the agent or inspector of the department of agriculture of the State of California, or to any person by such department of agriculture authorized in writing to receive the same, a perfect sample of each article seized by virtue of such warrant, for the purpose of having the same analyzed and forthwith to return to the person from whom it was taken the remainder of each article seized as aforesaid. If any sample be found to be imitation butter or imitation cheese, or oleomargarine, or a substance designed to be used as a substitute for butter or cheese, or renovated butter, it shall be returned to and retained by the magistrate as and for the purpose contemplated by section one thousand five hundred thirty-six of an act to establish a Penal Code; but if any sample be found not to be imitation butter or imitation cheese, or oleomargarine, and not a substance designed to be used as a substitute for butter or cheese, or renovated butter, it shall be returned forthwith to the person from whom it was taken.

(l) No person, firm or corporation, by themselves, or their agents or employees, shall sell, offer for sale, or expose for sale, or have in his, its or their possession for sale, any oleomargarine or any renovated butter, unless the same shall have printed upon each and every package, roll, print, square, and upon any container of such renovated butter, or oleomargarine, the words, "renovated butter," or the word, "oleomargarine," as the case may be, in letters not less than one-half inch in height, and who shall not have secured from the said department of agriculture a license as provided hereinafter.

(m) Renovated butter is the product made from impure or rancid butter reduced, for the purpose of cleansing and renovating, to a liquid state by melting and draining off the liquid milk fat and afterwards churning or otherwise manipulating it in connection with milk or any product thereof. Butter made from assembled cream made from pure milk fat (made from non-rancid butter) combined with other wholesome milk products, under special permit from the department of agriculture of the State of California, which otherwise conforms to the standards for butter required by this act, shall not be construed to be renovated butter.

(n) No person, firm or corporation, shall engage in the business or occupation of manufacturing, selling, dealing in, or furnishing renovated butter, oleomargarine, or any substance designed to be used as a substitute for butter, without first having applied for and obtained a license so to do, as hereinafter provided. Any person, firm or corporation, desiring to engage in the business or occupation of manufacturing, selling, dealing in or furnishing to his, its or their patrons, oleomargarine or any substance designed to be used as a substitute for butter, or imitation butter, or adulterated butter, or renovated butter, as in this section defined, shall first make application each year to the said department of agriculture for a license, and upon payment of a license fee of the amount mentioned herein to the said department of agriculture, said department of agriculture shall issue to the applicant a license. All such licenses shall contain the following proviso: provided, that this license does not authorize the holder thereof to manufacture, sell, deal in or furnish any oleomargarine, or similar substances designed to be used as a substitute for butter which contain any coloring matter or which resemble yellow butter in appearance. All said licenses shall expire on the thirtieth of June of each year, and may be issued in periods of one year, or less than one year, upon payment of a proportionate part of the license fee. The fees for issuing said licenses are hereby fixed at the amounts named below annually. The fee for

issuing said license to manufacturers of any of said substances within this state shall be one hundred dollars, and if issued to wholesale dealers in, or importers or agents for importers of any of said substances the fee shall be fifty dollars, and if issued to retail dealers in any of said substances the fee shall be five dollars, and if issued to the keeper of any hotel, restaurant, boarding-house or other place where meals are served and payment is received therefor, either immediately or by the day, week or month, the fee shall be two dollars. The term wholesale dealer as used in this section includes all persons, firms or corporations, who sell any of said substances in quantities of ten pounds or more at a time or in the same transaction. The term retail dealer includes all persons who sell only in quantities of less than ten pounds. All licenses, while in force, shall be kept conspicuously displayed in the place of business of the party or parties to whom they have been issued. It shall be unlawful for any person, firm or corporation, to manufacture, buy, sell, deal in, or furnish to his, its or their patrons, or to have in possession, for any purpose whatsoever other than for consumption in his own family, or for transportation in case of a boat or railroad company, or for the purpose of storage in case of a warehouse or cold storage company, any oleomargarine, or similar substance designed to be used as a substitute for butter, or any substance resembling butter, but not made wholly from pure milk or cream, or renovated butter as in this section defined, without first having applied for and obtained from the department of agriculture of the State of California the license herein required.

(o) Every person, firm or corporation, who is required by the provisions of paragraph (n) of this section to obtain and hold a manufacturer's or wholesaler's or importer's license shall keep a correct record in a form separate from all other business, in which every sale and purchase of renovated butter, imitation butter, oleomargarine, or any substitute for butter or substance designed to be used as a substitute for butter, or resembling butter, which substance is not made wholly from pure milk or cream, or any imitation cheese or imitation dairy products of any kind, shall be recorded at the time of the transaction, giving in detail the quantity sold or purchased, the name and location of the buyer or seller, the date, and the place to which it was shipped or delivered, and by whom the order or sale was put up and delivered. Every warehouse, cold storage company, boat, railroad or other transportation company shall keep a correct record of all oleomargarine, imitation butter, renovated butter, substitute for butter, imitation cheese, or other imitation dairy products, which at any time may be in their possession, or which may be transported or stored by them, showing the owner, the quantity and kind of goods, the date when stored, and when removed, in case of warehouses and cold storage companies, and showing the character of goods billed, the quantity, the name and address of consignor and consignee, and the date of transportation, in case of boats and railroad companies. All said records herein required to be kept shall, at all times during business hours, be open to the inspection of the agents and inspectors of the said department of agriculture and of any officer of any city or county board of health, and of any peace officer of any city or county of the state. A failure to keep any of the records herein required to be kept or to permit the inspection of such records, by any inspector or agent of the said department of agriculture or of any city or county board of health, or by any peace officer of any city or county, as herein required, is hereby declared to be a misdemeanor and punishable as provided herein.

(p) No imitation milk or cheese, and no oleomargarine shall be used in any of the charitable or penal institutions that receive assistance from the state.